



Switzerland

Country Reports on Human Rights Practices - [2000](#)

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Switzerland is a constitutional democracy with a federal structure. The bicameral Parliament elects the seven members of the Federal Council, the highest executive body, whose presidency rotates annually. Because of the nation's linguistic and religious diversity, the Swiss political system emphasizes local and national political consensus and grants considerable autonomy to individual cantons. Voters approved a new Constitution in April 1999 that came into force on January 1, 2000. The judiciary is independent.

The armed forces are a civilian-controlled militia based on universal military service for able-bodied males. There is virtually no standing army apart from training cadres and a few essential headquarters staff. Police duties are primarily a responsibility of the individual cantons, which have their own police forces that are kept under effective control. The National Police Authority has a coordinating role and relies on the cantons for actual law enforcement. There were allegations of occasional abuses by police.

Switzerland has a highly developed free enterprise, industrial, and service economy strongly dependent on international trade. The standard of living is very high.

The Government generally respects human rights, and the law and judiciary provide effective means of dealing with individual instances of abuse. There continue to be allegations by nongovernmental organizations (NGO's) of occasional police harassment directed against foreigners, particularly asylum seekers, including arbitrary detention. Violence against women is a problem, and the Government is continuing to take serious steps to address it. Trafficking in women for forced prostitution increased. Some laws still tend to discriminate against women. There continue to be reports of verbal abuse against foreigners by private citizens.

The new Constitution approved by voters in 1999 provides for new protection for citizens' rights, including the principle of equal opportunity for the disabled and the right to strike.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including

Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

Human rights groups strongly criticized police for the death of 27-year-old Palestinian Khaled Abuzarifeh, who died at Zurich-Kloten airport while being forcibly deported in March 1999. In January Zurich cantonal authorities announced that forensic tests showed that Abuzarifeh died of suffocation. For deportation he was strapped into a wheelchair and adhesive tape was placed over his mouth to prevent him from shouting. According to airport police, such restraints were permitted because Abuzarifeh's physical resistance thwarted a first deportation attempt. Cantonal authorities claim no longer to be using adhesive tape to cover the mouth during deportations. In connection with Abuzarifeh's death, three police officers and a doctor were placed under formal investigation of charges of manslaughter by culpable negligence.

Fulgence Niyonteze, the former mayor of the Rwandan town of Mushubati, sought asylum in Switzerland in 1994 and was arrested in 1996. In May 1999, a military court convicted him of crimes committed during the 1994 genocide, including murder (taking part in the massacre of Tutsis), attempted murder, incitement to murder, and war crimes. He was sentenced to life imprisonment. Niyonteze was tried by a military tribunal because Swiss law stipulates that alleged war crimes and violations of the Geneva Conventions be tried by a military tribunal.

On May 26, 2000, a military appeal court heard Niyonteze's appeal of his sentence of life imprisonment. The court found Niyonteze guilty of war crimes and violations of the Geneva Conventions but dropped the first charges of murder and incitement to murder and declared that a military tribunal had no authority to try such offenses when committed abroad by a civilian. The military appeal court sentenced Niyonteze to 14 years in prison. Both the public prosecutor and Niyonteze filed appeals of the sentence.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution proscribes such practices, and there were no reports of violations. There were allegations by NGO's and some individuals of occasional police harassment of foreigners, particularly asylum seekers (see Section 2.d.).

Brazilian national Luis Felipe Lourenco was arrested in 1998 in Geneva on charges of theft of a credit card. A prison guard allegedly beat him while he was in custody. Prison authorities reportedly waited 2 hours before transporting Lourenco to the hospital, where he was diagnosed with a perforated lung and damage to his spinal cord. Lourenco is paralyzed in all his limbs as result of the injuries that he claims to have suffered while detained. The prison administration maintained that Lourenco's injuries were incurred when he threw himself against a door.

On August 28, a Geneva magistrate decided not to indict the guard for negligence causing bodily harm, as Lourenco had demanded, on the grounds that there was insufficient evidence for criminal charges. The magistrate based the decision primarily on the results of a medical study of Lourenco's injuries but also took into consideration the guard's previously unblemished record. In their report, the three medical experts consulted by the magistrate stated that they failed to establish the truth with certainty, but that they deemed the guard's version of events, that Lourenco's injuries were self-inflicted, more plausible. In October Lourenco's lawyers filed an appeal of the magistrate's decision with the Geneva Criminal Court.

No new developments occurred in the case of Clement Nwankwo, a Nigerian human rights monitor who accused the Geneva police of mistreatment during his arrest in 1997. Having exhausted domestic remedies unsuccessfully, Nwankwo is appealing his case to the European Court of Human Rights. NGO's believe that the Nwankwo case underscores overall problems with police treatment of foreigners, especially asylum seekers in Geneva and perhaps elsewhere. Their concern was echoed in a 1997 report by the U.N. Committee Against Torture, which expressed concern about "frequent allegations of ill-treatment" inflicted in the course of arrests and police custody. The report also noted a lack of independent mechanisms in the cantons to provide certain legal protections such as the possibility, "especially for foreigners," to contact their family or a lawyer in case of arrest and to be examined by an independent doctor on entering police custody, after each interrogation, and before being brought before an investigating magistrate or being released. Responding to these concerns, in 1998 a team of experts appointed by the Federal Office of Justice presented a preliminary study identifying possible characteristics of a future federal-level code of penal procedures that would replace the cantonal codes. The study recommends granting fundamental protections to detainees in police custody, including the introduction of a legal right to inform relatives or third parties of their arrest. However, the committee did not recommend a provision for access to a lawyer from the time of arrest.

Prison conditions meet minimum international standards, although some NGO's complain of prison overcrowding. The Government has taken measures to improve prison conditions and address overcrowding. The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The legal prohibitions on arbitrary arrest and detention generally are respected at all levels of government. The cantons are responsible for handling most criminal matters, and procedures vary somewhat from canton to canton. In general a suspect may not be held longer than 48 hours without a warrant of arrest issued by an

investigative magistrate. However, asylum seekers and foreigners without valid documents may be held for up to 96 hours without an arrest warrant. Some NGO's alleged that the authorities arbitrarily detained asylum seekers (see Section 2.d.). A suspect may be denied legal counsel at the time of detention but has the right to choose and contact an attorney by the time an arrest warrant is issued. The State provides free legal assistance for indigents who may be jailed pending trial. Investigations are generally prompt, even if in some cases investigative detention may exceed the length of sentence. Release on personal recognizance or bail is granted unless the magistrate believes the person is dangerous or will not appear for trial. Any lengthy detention is subject to review by higher judicial authorities. During the year, about one-third of all prisoners were in pretrial detention, and the average length of such detention was 52 days.

The law prohibits forced exile, and the Government does not use it.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process.

All courts of first instance are local or cantonal courts. Citizens have the right to appeal, ultimately to the Federal Court.

Minor cases are tried by a single judge, difficult cases by a panel of judges, and murder (or other serious cases) by a public jury. Trials usually are held expeditiously. The Constitution provides for public trials in which the defendant's rights are fully respected, including the right to challenge and to present witnesses or evidence.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Cantonal laws regulate police entry into private premises. These regulations differ widely from canton to canton, but all prohibit such practices without a warrant. All government authorities respect these provisions, and violations are subject to effective legal sanction.

Instances of forced sterilization of women resurfaced in public debate during the year. In 1981 the Swiss Academy for Medical Science decided that forced sterilization is not permissible if a person is incapable of understanding the consequences. This guideline is undergoing revision because of what the Academy calls a changed social understanding of the sexuality of the mentally disabled. Although no data indicates that more pregnancies occur when disabled women and men live together in homes, the Academy considers its guideline outdated. Draft legislation to revise the Academy's position is in parliamentary consultation. The draft would permit forced sterilization in cases when no other form of contraception is usable.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom. The authorities legally may restrict these freedoms for groups deemed to be a threat to the State, but no groups were restricted during the year. In addition an article of the Penal Code criminalizes racist or anti-Semitic expression, whether in public speech or in printed material.

Parliamentary immunity protects parliamentarians from prosecution for acts that relate to their government position. However, following a 1998 incident in which a national councilor, Rudolf Keller, made anti-Semitic remarks and could not be prosecuted because Parliament refused to lift his immunity, the upper house of Parliament voted in 1999 for its partial abolishment. However, the National Council, the lower house of Parliament, rejected the legislative proposal twice, the second time in October, thus preserving the existing rules.

The nationwide broadcast media are government funded but possess editorial autonomy. Private and foreign broadcast media operate freely.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government respects them in practice.

c. Freedom of Religion

The Constitution provides for complete freedom of religion, and the Government generally respects this right in practice. There is no single state church, but all cantons support at least one of the three traditional denominations--Roman Catholic, Old Catholic, or Protestant--with public funds. In all cantons, an individual may choose not to contribute to church funding. However, in some cantons, private companies are unable to avoid payment of the church tax. A religious organization must register with the Government in order to receive tax-exempt status. There have been no reports of a religious group applying for the "church taxation" status that the traditional three denominations enjoy.

Foreign missionaries must obtain a "religious worker" visa to work in the country. Requirements include proof that the foreigner would not displace a citizen from doing the job, that the foreigner would be financially supported by the host organization, and that the country of origin of religious workers also grants visas to Swiss religious workers.

Religion is taught in public schools. The doctrine presented depends on which religion predominates in the particular canton. However, those of different faiths are free to attend classes for their own creeds during the designated class period. Atheists also may be excused from the classes. Parents also may send their children to private (parochial) schools or teach their children at home.

In July 1999, the Business Review Commission of the National Assembly issued a report entitled "Sects or Assimilative Movements in Switzerland," containing recommendations to the Government on the need for state involvement and the creation of national policy. The Commission recommended that the Government formulate a "sect" policy and coordinate the cooperation of researchers and informational and counseling committees. In June 2000, the Government rejected the Business Review Commission's recommendation to formulate a national sect policy. The Government stated that such a policy would conflict with the constitutional right to freedom of religious beliefs. The Government also opposed the creation of a National Information and Counseling Center pointing out that religious matters fall under the jurisdiction of the cantons.

In 1998 the city of Basel passed a law banning aggressive tactics for handing out flyers. This action was prompted by complaints about Scientologists' methods. In June 1999, Scientology lost a bid in the country's highest court to overturn a municipal law that barred persons from being approached on the street by those using "deceptive or dishonest methods." The Court ruled that a 1998 Basel law, prompted by efforts to curb Scientology, involved an intervention in religious freedom but did not infringe on it.

The city of Buchs, St. Gallen, also passed a law modeled on the Basel law. However, it is still legal to proselytize in nonintrusive ways, such as public speaking on the street or by going door-to-door in neighborhoods.

In Zurich in June 1995 Scientologists appealed a city decision that prohibited them from distributing flyers on public property. In September 1999, a higher court decided that the Scientologists' activities were commercial and not religious, and that the city should grant them and other commercial enterprises such as fast food restaurants more freedom to distribute flyers on a permit basis. Fearing a heavy administrative and enforcement workload, the city appealed to the Supreme Court. The Supreme Court decision rejected the appeal in June 2000, reinforcing the decision by the previous court that the Scientologists' activities were commercial in nature. The Supreme Court decision is expected to establish a nationwide legal guideline on the issue.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Under the Constitution and the law, citizens are free to travel in or outside the country, to emigrate, and to repatriate. Non-Swiss convicted of crimes may receive sentences that include denial of reentry for a specific period following the completion of a prison sentence.

Switzerland traditionally has been a haven for refugees, but public concern over the high number of asylum seekers entering the country in the wake of the Kosovo conflict generated domestic political pressure on the Government in 1999 to tighten its policy regarding their acceptance. The Government granted temporary asylum to approximately 63,000 Kosovars seeking refuge from the armed conflict. Following the end of hostilities and the deployment of the international protection force, the Federal Council in August 1999 deemed

a return of refugees to Kosovo justifiable and ended its policy of granting temporary asylum collectively.

The Government initially offered material and financial aid to refugees leaving the country voluntarily. Some 32,000 Kosovars accepted this offer, which ended in May. Since June the Government proceeded with forced repatriations, expelling by the end of August some 4,300 Kosovars--178 of them on special flights in police custody. In May the Federal Government granted a delay in departure dates in some 4,000 cases that involved individual hardship (families with children in school, members of ethnic minorities, the elderly, the sick, single mothers, and pregnant women). In December approximately 1,500 Kosovars with expired temporary residence permits remained in the country. In coordination with the U.N. Mission in Kosovo, the Government agreed to slow the flow of repatriations in December and in January 2001.

In August the umbrella organization of refugee aid NGO's criticized the Federal Government for some forced repatriations of Kosovo refugees that they termed excessively harsh and inhumane. Another human rights group, Eyes Open, criticized Zurich cantonal police practices in the compulsory repatriations of failed asylum seekers (see Section 1.c.). The group noted that the excessive use of hand and leg restraints in the return of Congolese asylum seekers in August gave the impression that they were criminals.

The 1999 asylum law provides for the collective admission of victims of violence and authorizes the Federal Council to grant them temporary protective status. It also simplifies and accelerates the process of applying for asylum. At the same time, the law is designed to curtail the misuse of asylum regulations and to enable the more rapid repatriation of uncooperative refugees or those who enter the country without identity papers. The Government may refuse to process the application of an asylum seeker who cannot credibly justify not having identity papers. In such a case the applicant must submit an appeal to reactivate consideration of the application within 24 hours. NGO's contend that such a short time span does not constitute an effective remedy and therefore violates the European Convention on Human Rights.

Some human rights NGO's have charged the authorities with abuses in connection with the implementation of a 1995 amendment to the Law on Foreigners. The amendment is aimed at asylum seekers or foreigners who live illegally in the country and who are suspected of disturbing the public order or avoiding repatriation. In particular these groups have alleged instances of abuse by police, including arbitrary detention as well as denial of access to established asylum procedures at the country's two main airports. They also charge that police officers use the law to detain or harass asylum seekers who were not suspected of having disturbed public order. Under the law, police actions are subject to judicial oversight, and the Federal Court overturned many cases in which it believed that there was insufficient regard for the rights of asylum seekers and foreigners. While NGO's claim that the situation with regard to arbitrary detention has improved, they contend that the denial of access to asylum procedures at the two airports is increasing.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum. The Federal Office for Refugees estimated that in August the total number of asylum applicants and temporary residents living in the country was 143,000. (This included recognized refugees, persons granted temporary asylum, as well as those who either have a first asylum application pending, appealed against a rejection, or were currently awaiting repatriation.) A year earlier, in the aftermath of the Kosovo war, the figure stood at 182,000. Some 11,000 new applications for asylum were submitted by the end of August, 72 percent less than during the same period last year. Refugees whose applications are rejected are allowed to stay temporarily, if their home country is experiencing war or insurrection. The Government denies having forced persons to return to countries where they have a well-founded fear of persecution and insists that each case is examined carefully. However, NGO's including the well-known Eyes Open organization have accused the Government of sometimes expelling rejected asylum seekers even though conditions in their native country remain unfavorable.

In December the independent commission of experts under Professor Bergier published a supplement to its 1999 report. The commission found that the Government systematically expelled Roma (Gypsies) or turned them away at the border during much of the 20th century, including during World War II. Thus Switzerland refused asylum to Roma who faced persecution in Nazi-occupied territory. The commission report does not indicate the number of rejected applicants. In response to the Bergier report, the Government expressed to the Roma communities its deep regret over its policy prior to, during, and after World War II. In its statement the Government mentioned the foundation of "A Future for Swiss Itinerants," a fund that it established in 1997 and endowed with \$600,000 (1 million Swiss francs) to improve living conditions for Roma.

In the same statement, the Government referred to its earlier statement following issuance of the Bergier commission report in December 1999, in which the Government apologized for its asylum policy during World War II, when thousands of Jewish refugees were refused entry to the country (see Section 5).

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully (at local, cantonal, and federal levels), and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In addition initiative and referendum procedures provide unusually intense popular involvement in the legislative process. In April 1999 voters approved a new Constitution.

Women remain underrepresented in government and politics. They were disenfranchised until 1971 at the federal level, but since then their participation in politics has continued to expand. In 1999 Ruth Dreifuss served as the first female President. Women occupy 55 of the 246 seats in the Parliament, 2 of 7 seats in the Federal Council (Cabinet), roughly one-fourth of the seats in the cantonal government executive bodies, and one-fifth of the seats in the communal executives. In 1999 the electorate overwhelmingly rejected a popular initiative to mandate equal gender representation in all federal institutions by a ratio of four to one.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A large number of international and domestic human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are cooperative and generally responsive to their views.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and laws prohibit discrimination on the basis of race, sex, religion, language, or social status. The Government generally enforces these prohibitions effectively, although some laws tend to discriminate against women. The new Constitution includes provisions for equal rights for the disabled and for minorities.

Women

Violence against women is a problem. According to a 1997 government-funded study on domestic violence, one-fifth of all women suffer at least once in their lifetimes from physical or sexual violence, and about 40 percent suffer from psychological or verbal abuse. Another 1998 study estimates that over 100,000 cases of domestic violence occur each year.

The law prohibits wife beating and similar offenses. Spousal rape is a crime in the Penal Code. Victims of domestic violence can obtain help, counseling, and legal assistance from specialized agencies or from nearly a dozen hot lines sponsored privately or by local, cantonal, and national authorities. Police have specially trained units to deal with violence against women, and victims legally are entitled to be heard exclusively by female police officers and judges. A total of 732 women and 722 children took refuge in 14 women's shelters across the country during 1999. Those in charge of the shelters estimate that nearly as many were denied access due to a lack of space and limited funding.

The difficulty in gathering information about the number of prosecuted, convicted, or punished spouse abusers stems in part from the fact that legal cases are handled by each canton and data are often not up-to-date. According to 1998 police criminal statistics, 314 men were investigated for rape offenses, and 84 were sentenced.

The Federation of Women's Organizations and numerous other women's NGO's have heightened public awareness of the problem of violence against women. In 1998 two government-supported women's organizations that fight for equal gender rights jointly conducted the first national campaign against violence in relationships. This campaign received extensive media coverage.

Prostitution is legal; however, working by foreigners without a valid permit is illegal. The Penal Code criminalizes sexual exploitation and trafficking in women; however, trafficking in women is a problem (see Sections 6.c. and 6.f.).

Although the new Constitution prohibits all types of discrimination, and a 1981 amendment provides for equal rights, equal treatment, and equivalent wages for men and women, some laws still tend to discriminate against women. A 1988 federal marriage law provides that in the event of a divorce, assets accumulated during the marriage will be divided equally. However, the Supreme Court ruled that the primary wage earner must be left with sufficient income to remain above the poverty level. Since the man is the primary wage earner in most marriages, when the income is too low to support both parties, it is usually the wife (and children) who are

forced to survive on public assistance. Statistics from 1999 show that nearly 70 percent of women who did not work outside the home while married fell below the poverty line immediately after a divorce. Although mandated by a constitutional amendment in 1945, no federal law on maternity insurance exists.

Immigrant women married to a Swiss husband (or immigrants with long-term residence permits), who have lived in Switzerland for less than 3 to 5 years from date of marriage (length depends on country of origin, education, and income level), cannot divorce their husbands without the risk of having to leave the country. Their purpose for being in Switzerland officially is registered as "stay with spouse" until they receive their own long-term residency permits, and they are in danger of losing permission to remain if they divorce. NGO's argue that this prevents women with problems from being able to seek help--or leave their husbands--without serious consequences.

A 1996 law includes a general prohibition on gender-based discrimination and incorporates the principle of "equal wages for equal work." The law also includes provisions aimed at eliminating sexual harassment and facilitating access to legal remedies for those who claim discrimination or harassment.

The Federal Office for Equal Opportunities for Men and Women and the Federal Commission on Women work to eliminate all forms of direct and indirect discrimination. In 1999 a federal level interdepartmental working group issued an action plan that outlined strategic goals and measures to improve the situation of women. These include measures in the areas of education, health, violence against women, the workplace, human rights, the media, and the environment. For example, the plan calls for financial support for child care facilities at colleges and universities to enable a larger number of women to obtain a higher education; continued education and support for specialists in the area of addiction prevention for women; and ongoing analysis and data collection on the issue of wage differences between men and women. The working group that issued the plan in 1999 is scheduled to reconvene in January 2001 to draft a report to Parliament due in 2002 on federal implementation of the action plan.

On average women earn 20 to 30 percent less than men. A June study found that discriminatory behavior by employers accounts for 60 percent of the overall wage gap between men and women. Women also are promoted less often than men. Individual cases of denial of equal pay for equal work are subject to the 1996 law. In 1998, the most recent year for which data are available, 26.3 percent of women between the ages of 15 and 61 were not in the work force; of those in the work force 50.5 percent worked full time. Women hold 83 percent of all part-time jobs.

The issue of pre-1970's forced sterilization of some women resurfaced in the media this year, when the Swiss Academy for Medical Science decided to review its guidelines for the practice (see Section 1.f.).

The law prohibits women from working during the 8 weeks after the birth of a child. Further measures also protect pregnant and breast-feeding women. For example, pregnant women are not allowed to work night shifts during the 8 weeks prior to giving birth. The law does not provide for compensation; however, 72 percent of working women have negotiated maternity benefits with their employers. In June 1999 voters rejected a government proposal in a referendum for 14 weeks of paid maternity leave at 80 percent pay for working women. The plan would also have given low-income new mothers a one time premium. (The Parliament had passed draft legislation in December 1998 that provided for the maternity benefits mandated by the Constitution in 1945.) It was the third time that a maternity benefits scheme had been rejected in a popular referendum in 15 years. Hundreds demonstrated to protest the vote, and a new proposal appeared in the National Council in July 2000. In alignment with the European Union, it again called for 14 weeks of paid maternity leave and asked employers for full pay during the first 8 weeks as is consistent with the law prohibiting women from working in the first 8 weeks after birth. The new proposal leaves out the subsidy for nonworking mothers. The Council of States, the upper house of Parliament, followed the lead of the National Council in December, and obliged the Federal Government to work out a new maternity benefits scheme along the lines of the July 2000 proposal. Meantime, women in Geneva Canton will have paid maternity leave beginning in July 2001; on December 14 the cantonal parliament passed legislation providing for a 16-week leave following delivery at 80 percent of salary for all women who previously worked in the canton for a minimum of 3 months. However, the law is still subject to federal approval.

Children

Despite the fact that the Government has no special program for children and that there is no special governmental office for children's matters, the Government demonstrates its strong commitment to children's rights and welfare through a well-funded public education system and need-based subsidies of health insurance. Schooling is free and compulsory for 9 years, from age 6 or 7 through age 16 or 17, depending on the canton. Some cantons offer a 10th school year. The Government subsidizes the health insurance premiums of low-income families.

The federal and cantonal governments, as well as about 80 NGO's that defend children's rights, have devoted considerable attention in recent years to child abuse, especially sexual abuse. For convicted perpetrators of the latter, the law provides for imprisonment of up to 15 years. In 1997 amendments to the Federal Penal Code came into effect that provide for an increase in the statute of limitations in cases of child abuse from 5 to 10 years. In severe cases of sexual abuse, the statute is to begin to take effect only when the victim turns 18. There is no societal pattern of abuse of children.

To combat child pornography on the Internet, the Federal Office for Police provides an Internet monitoring service on its World Wide Web page. Individuals who find pornographic material involving children are asked to contact the Federal Office via e-mail. According to the Penal Code, the production, possession, distribution, or showing of hard pornography are punishable with fines or prison sentences. Any pornography involving children falls into this category. In March 1999 an NGO published the first compilation of cases of child pornography and prostitution in the country. The study cited 60 cases. Most of the victims were girls between 13 and 17 years of age.

With respect to child abuse abroad, the law provides for prosecution only if the act is considered a crime in the country in which it took place. Experts have proposed making such acts punishable in Switzerland regardless of where the crime took place, but there was no legislative action on the problem during the year.

Parliament's 1997 ratification of the U.N. Convention on Children's Rights included five reservations, the most important of which concerned children of migrant seasonal workers who are not permitted automatically to join their parents. Children of foreigners working as migrant laborers are only permitted to visit on tourist visas for a period of 3 months at a time. After 3 months, they must return to their homeland for 1 month. The Government reexamined the necessity for these reservations and included its conclusions in its first report to the Committee on Children's Rights in November. All five reservations still apply.

In June the Government ratified ILO Convention 182 forbidding the worst forms of child labor (including child prostitution, forced labor, and using children for illegal activities such as drug dealing).

People with Disabilities

The law prohibits discrimination directed at disabled persons in employment, education, and the provision of other state services. Advocates for the disabled have called for new measures to ensure greater protection for their rights, including easier access to buildings and public transportation. However, the Government has not mandated that buildings or transportation facilities be made accessible. Article 8 of the new Constitution (in effect as of January 1) provides for equal opportunities for the disabled. However, it does not include provision for making public buildings and facilities accessible. The upper house of Parliament discussed this addition in

June and decided that the requirements for equal treatment as contained in the Constitution were sufficient to meet the demands of the disabled.

A 1995 law exempts disabled men from the tax imposed on those who have not fulfilled their military duty.

Religious Minorities

In response to the issue of Holocaust era assets, the Government and private sector initiated a series of measures designed to shed light on the past, provide assistance to Holocaust victims, and address claims to dormant accounts in Swiss banks. The independent commission of experts under Professor Jean-Francois Bergier, charged with examining the country's wartime history and role as a financial center, issued its report in December 1999 and found that there were more than 24,000 documented rejections of asylum seekers during the World War II period, including a large number of Jewish refugees who were refused asylum even after authorities were aware of the dangers that they faced from the Nazis.

The Federal Council issued a statement that repeated its previous apology for policy errors made during World War II and stated that its asylum policy "was marred by errors, omissions, and compromises." Also in December 1999, the Independent Committee of Eminent Persons under Paul Volcker released its report on "dormant accounts of victims of Nazi persecution in Swiss banks." The report represents the culmination of a 3-year investigation into the fate of victims' accounts. The Volcker report recommended that the Swiss Federal Banking Commission publish about 26,000 account holders' names, based on their probable or possible identity as Holocaust victims. The report also made recommendations on the means of resolving claims by victims of Nazi persecution or their heirs and the appropriate treatment of dormant accounts in the future.

The Swiss Special Fund for Needy Holocaust Victims received approximately \$190 million (323 million Swiss

francs) in contributions from the private sector and the Swiss National Bank. By September the fund had allocated but not yet fully paid out an initial contribution to Holocaust survivors in Israel, Australia, Germany, Latin America, and Eastern Europe. In total some 310,000 persons, 88 percent of them Jewish, are expected to benefit from the fund. On March 31, 1999, the Government's World War II task force became the Switzerland-World War II Office, which remains engaged in supporting progress on resolving Holocaust assets issues. A \$1.25 billion (2.12 billion Swiss francs) settlement of the class action lawsuit filed in the United States district court in Brooklyn, New York, against Swiss banks was announced in August 1998, completed in January 1999, and formally approved by the New York judge on July 26, 2000.

A provisional plan of allocation and distribution was announced on September 11. The plan earmarks up to \$800 million (1.36 billion Swiss francs) to cover outstanding claims against Swiss banks; the remaining sum is to be paid out to World War II forced laborers as well as refugees who were denied entry to or were harmed while detained in Switzerland. To be included in the settlement and thus avoid further class action suits, 37 Swiss industrial firms notified the New York court that their subsidiaries employed forced labor during World War II.

The Swiss National Bank released a report in 1999 that stated that its officials ignored warnings that they were buying looted Nazi gold. The bank has contributed approximately \$70 million (110 million Swiss francs) to the Swiss Special Fund for Needy Holocaust Victims.

Two Swiss life insurers, both explicitly excluded from the \$1.25 billion settlement, participate in the ongoing efforts by the International Commission on Holocaust Era Insurance Claims to establish a formula and just sum for compensating Holocaust victims or their families for policies they held. Both companies agreed to resolve outstanding claims of unpaid insurance policies submitted within a period of 2 years, starting in February and ending in 2002. The Federal Council is seeking legislation to establish a solidarity fund, which would assist victims of human rights violations, including those who suffered in the Holocaust. In May the Federal Council endorsed and returned to Parliament revised legislation concerning a Swiss Solidarity Foundation. Under the modified act, the foundation would dispose of the proceeds from the management of 500 tons of central bank gold reserves recently declared "excess." The Solidarity Foundation act has yet to be approved by Parliament. The alternative use of the extra gold reserves will be subject to a mandatory referendum.

In the context of the discussions over Nazi gold and Holocaust era assets, anti-Semitic slurs reportedly still remain a problem. Government officials, including the President, have spoken frequently and publicly against anti-Semitism. From 1995 when an antiracism law was enacted until the end of 1998, some 300 court cases were brought for violations of the law. Roughly half of them resulted in convictions by a court of first instance, but in many cases appeals are pending.

According to the Government, 104 cases of violation of the Anti-Racism Act were brought before the courts between 1995 (when the law was enacted) and the end of 1999. A total of 45 resulted in convictions (for anti-Semitism, revisionism, and racist oral or written slurs). Sentences for convictions included a 15-month prison sentence and a fine of \$12,000 (20,000 Swiss francs) for the Holocaust denier Jurgen Graf. The human rights group Eyes Open was among the NGO's that expressed concern over the continued existence of anti-Semitic sentiment.

In November 1998, the Federal Commission against Racism released a report on anti-Semitism in the country, which expressed concern that the recent controversy over the country's role during World War II had to some extent opened the door to expressions of latent anti-Semitism. At the same time, the Commission described the emergence of strong public opposition to anti-Semitism and credited the Federal Council with taking a "decisive stand" against anti-Semitism. The Commission also proposed various public and private measures to combat anti-Semitism and encourage greater tolerance and understanding. In its initial response to the report, the Federal Council pledged to facilitate implementation of the Commission's recommendations.

In December 1999, the Federal Council announced the creation of a Center for Tolerance in Bern. Planning under the chairmanship of a former parliamentarian is continuing, and financing will come from the public and private sectors. The center plans to produce exhibits designed to teach historical lessons, offer academic research opportunities, and host international symposia. A survey published in March showed that 16 percent of Swiss hold anti-Semitic notions. Among supporters of the rightwing Swiss People's Party the figure was 33 percent. The study also found that the recent controversy over Swiss World War II behavior affected survey results, particularly among the older generation. Conversely, 92 percent of young persons polled harbored no anti-Semitic sentiments. The survey reflected inconsistencies. During the recent period of controversy over the Swiss World War II record, public opinion actually strengthened in support of antiracism laws. The case of a national councilor who made anti-Semitic remarks, but could not be prosecuted because Parliament refused to lift his immunity, led to an abortive attempt to restrict parliamentary immunity (see Section 2.a.).

The Federal Court decided on June 7 to uphold a cantonal decision granting Scientologists the right to distribute leaflets in public areas. However, the court also affirmed that Scientology leaflets serve a "commercial enterprise" and that distributors must obtain a permit to use public areas for their dissemination. The court ruled that Scientology does not act as a religious organization in such cases. Scientologists previously distributed flyers without the necessary permits, protected by the Religious Freedom Act. Several cantons are likely to use the precedence of the Federal Court's decision to regulate the distribution of leaflets (see Section 2.c.).

National/Racial/Ethnic Minorities

According to NGO statistics, there were 56 reported incidents directed against foreigners or minorities in the first 6 months of the year, compared with 62 for the first half of 1999. These figures include instances of verbal and written "attacks," which are much more common than physical assaults. Investigations of these attacks are conducted effectively and lead, in most cases, to the arrest of the persons responsible. Persons convicted of racist crimes commonly are sentenced to from 3 days' to 3 years' imprisonment with a fine of up to approximately \$27,000 (40,000 Swiss francs).

On March 12 the voters of Emmen, a small township in Canton Lucern, voted on local foreign residents' applications for citizenship. The voters rejected 48 applicants, almost all exclusively from southeast Europe, while approving 8 Italians' citizenship bids. Fearing the vote was a violation of the European Human Rights Convention, the Swiss Federal Council determined to look into the practice. The Emmen vote caused a national uproar and prompted several motions in Parliament. In response the Federal Council referred the issue to a working group set up in 1999, which examines the Government's naturalization practice.

Section 6 Worker Rights

a. The Right of Association

All workers, including foreigners, have the freedom to associate freely, to join unions of their choice, and to select their own representatives. The Government does not hamper the exercise of these rights. About one-quarter of the work force is unionized.

The right to strike is recognized legally and exercised freely, but a unique labor peace under an informal agreement between unions and employers--in existence since the 1930's--has meant fewer than 10 strikes per year since 1975. The new Constitution provides specific protection for the right to strike. In a Basel laundry workers went on an almost unprecedented 5-day strike after management of the former state enterprise asked some workers to accept a "industry standard" wage of about \$1,700 monthly (3,000 Swiss francs). The strike ended on December 4 after a tense scuffle between police and pickets and protracted negotiations between the two sides and Basel city officials. Management agreed to small wage gains and a cost-of-living adjustment mechanism that will increase wages gradually to about \$2,000 (3,500 Swiss francs). In the absence of a minimum wage law, labor leaders see the worker gains in this first major strike in a decade as a signal for revived recruiting and broader public opinion support for the labor movement's minimum wage campaign.

A 1927 law bans public servants, as well as workers in state-owned bodies such as the postal service, from striking. However, in November voters approved a referendum on a new law concerning employees of the Federal Government that generally recognizes the right to strike. Only for reasons of national security, safeguarding national foreign policy interests, or

providing the population with essential goods and services may the Government curtail or suspend the right to strike for certain categories of government employees. The new law will enter into force in steps for different categories of employees between January 2001 and 2002.

Unions are independent of the Government and political parties, and laws prohibit retribution against strikers or their leaders.

Unions can associate freely with international organizations.

b. The Right to Organize and Bargain Collectively

By law workers have the right to organize and bargain collectively, and the law protects them from acts of antiunion discrimination. The Government fully respects these provisions. Periodic negotiations between employer and worker organizations determine wages and settle other labor issues at the local, or infrequently,

at the industry sector level. Nonunion firms generally adopt the terms and conditions fixed in the unions' collective bargaining.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Although there is no specific constitutional or statutory ban on forced or compulsory labor in general, and on child labor in particular, such practices generally are not known to occur; however, trafficking in women for forced prostitution increased (see Sections 5 and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum age for full-time employment of children is 15 years, and children are in school until this age. Children over 13 years of age may be employed in light duties for not more than 9 hours per week during the school year and 15 hours otherwise. The employment of youths between the ages of 15 and 20 is regulated strictly; they cannot work at night, on Sundays, or in hazardous or dangerous conditions. The State Secretariat for Economic Affairs effectively enforces the law on working conditions.

The Government does not prohibit specifically forced and bonded labor by children, although such prohibitions are included implicitly in the Labor Act. Such forms of labor are not believed to occur (see Section 6.c.). In June the Government ratified ILO Convention 182 forbidding the worst forms of child labor (including child prostitution, forced labor, and using children for illegal activities such as drug dealing).

Government officials inspect companies that employ children after having received complaints. Every year a few employers are fined or receive conditional imprisonment for violations of the law.

e. Acceptable Conditions of Work

There is no national minimum wage. The lowest wages fixed in collective bargaining are generally adequate to provide a decent standard of living for a worker and family. However, the Swiss Association of Trade Unions in a 1999 study found that 60,000 full-time workers (or 3.4 percent) fall below the poverty line, defined as earning less than approximately \$15,500 (22,900 Swiss francs), which is half of the median wage.

The 1964 Labor Act established a maximum 45-hour workweek for blue- and white-collar workers in industry, services, and retail trades, and a 50-hour workweek for all other workers. The law prescribes a rest period of 35 consecutive hours plus an additional half day per week. New labor legislation, which came into force on August 1, limits annual overtime to 170 hours for those working 45 hours per week and to 140 hours for those working 50 hours per week.

The law protects legal and illegal foreign workers. However, illegal foreign workers are not covered by mandatory health insurance in case of illness or accident. Wage discrimination against foreign workers is not permitted.

The Labor Act and the Federal Code of Obligations contain extensive regulations to protect worker health and safety. There have been no reports of lapses in the enforcement of these regulations, but the degree to which enforcement is effective is unclear. A 1998 law is designed to increase flexibility in the workplace and remove restrictions on women working at night. A worker may leave a dangerous assignment without penalty.

f. Trafficking in Persons

The Penal Code criminalizes sexual exploitation and trafficking in persons. Trafficking in persons can result in prison sentence of up to 5 years; coercing someone into prostitution or restricting a prostitute's personal freedom can carry a sentence of up to 10 years in prison. According to a 1999 official report, the police are concerned about the growing number of foreign women subject to abuse in sex trafficking rings. In the past, victims came from Thailand, parts of Africa, or South America; recently an increasing number of women come from Hungary, Russia, Ukraine, and other states of the former Soviet Union. Many victims are forced to work in salons or clubs to pay for the cost of their travel and forged documents and find themselves in a state of dependency. Traffickers sometimes seize victims' passports. Generally the victims do not read, write, or speak the country's languages, and are afraid to seek help from the authorities.

Since 1905 the Government has had an office to combat the trafficking of girls for the purpose of commercial sexual exploitation. Over the years this office has evolved to include all forms of trafficking in persons. The office has existed in its present form since 1998 as part of the criminal intelligence unit of the Federal Department of Police. In 1998 the Government institutionalized an exchange of information on trafficking in persons with NGO's. The Department of Foreign Affairs helps fund programs intended to combat trafficking from Eastern Europe.

Because the investigation, enforcement, and prosecution of individual trafficking and related cases is the responsibility of the cantonal police authorities, the federal human trafficking office also supports the cantonal prosecution authorities with information concerning trafficking abroad. In major cases the federal government establishes contacts with foreign government authorities.

In March Neuchatel cantonal police announced the arrests of four persons, including two African women married to Swiss nationals, on trafficking-related charges. The arrests followed an investigation initiated when the Swiss consulate in Yaounde became suspicious about unusually large numbers of Cameroonian women travelling to Switzerland. The consulate informed the federal Department of Foreign Affairs, which alerted cantonal police authorities. After an investigation spanning several months, the police were able to uncover the organization and obtain valuable information on how the ring operated.

Shortly after the arrests, a Zurich-based NGO submitted a petition to the Cabinet and both houses of Parliament that called urgently for the establishment of a protection program for trafficking victims. The petition was signed by 7,500 individuals, organizations, and parliamentarians. Their program would end the automatic expulsion of women arrested for illegal prostitution and legalize their stay for the duration of investigations and trials. Currently, most women are expelled within 96 hours. It would also provide shelter, protection from intimidation, counseling centers, and sensitivity training for police. The petition also calls for a change in the legal definition of trafficking to include not only women forced into prostitution but also women whose migration to Switzerland for marriage or domestic work puts them in a state of dependency. Parallel to the submission of the petition, a parliamentary initiative was launched calling for similar measures. The Federal Council (Cabinet) instructed an interdepartmental working group to assess the situation and to determine whether a revision of the relevant legal articles would be a useful step.

In order to confront modern forms of trafficking in women, especially via the Internet, the federal police have increased the number of their agents. In 1997 4 persons were convicted of trafficking in women and 13 were convicted of sexual exploitation; and in 1997-98 police uncovered a large Thai trafficking organization. Its leader was arrested, tried, and convicted. He later committed suicide in prison.

Prostitution is legal; however, it is illegal for foreigners to work without a valid work permit. Official police figures estimate that approximately 7,050 women work as prostitutes, both legally and illegally, mostly in the major Swiss cantons. In March 1999 the Government introduced new visa requirements for applicants from four South American countries--Colombia, Cuba, Ecuador, and Bolivia. The Office for Equality between Men and Women has a program to educate visa applicants in their native countries about the methods used by traffickers and the dangers of falling victim to them.

[End.]